

Handout 5 –Cooperators Meeting, 1/20/2010

Agreement Number: AZ-2010-24
Subject Code: 1786, 1278

**DATA SHARING AGREEMENT
BETWEEN
UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ARIZONA STRIP DISTRICT OFFICE
AND
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
U.S. FISH AND WILDLIFE SERVICE
U.S. GEOLOGICAL SURVEY
AND
UNITED STATES DEPARTMENT OF AGRICULTURE
U.S. FOREST SERVICE
AND
COCONINO COUNTY, ARIZONA
MOHAVE COUNTY, ARIZONA
KANE COUNTY, UTAH
SAN JUAN COUNTY, UTAH
WASHINGTON COUNTY, UTAH
AND
KAIBAB BAND OF PAIUTE INDIANS
HUALAPAI TRIBE

FOR THE
PROPOSED NORTHERN ARIZONA WITHDRAWAL EIS**

I. Introduction

- A. This Data Sharing Agreement (DSA) is between the United States Department of the Interior, Bureau of Land Management, Arizona Strip District Office (BLM) and the above-listed participants identified as "Cooperating Agencies" in separate executed Memorandums of Understanding (MOUs) with each participant. This DSA supplements those MOUs and incorporates by reference all roles and authorities identified in the MOUs. The Cooperating Agencies and BLM are jointly herein referred to as the "Parties" to this DSA.
- B. The Parties are collaborating on the preparation of an Environmental Impact Statement (EIS) for the Proposed Northern Arizona Withdrawal. The EIS is being prepared by BLM as the lead agency with the assistance of the Cooperating Agencies. An environmental consulting firm, SWCA Environmental Consultants (SWCA), has been retained by BLM to prepare the EIS under the BLM's direction.

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II. Purposes

- A. This DSA is entered into by the Parties for the purpose of sharing data, studies, reports and working drafts needed to prepare the EIS for the Proposed Northern Arizona Withdrawal.
- B. The objective of this DSA is to promote coordination and collaboration by allowing mutual access to information for review by the various Parties; to reduce duplication, incompatibility, and inefficiencies related to collection and use of geographic and geospatial information; and to facilitate SWCA in the preparation of the EIS.
- C. Costs associated with the administration and distribution of data among the Parties can be expensive and inefficient without this DSA. A data repository shared website should significantly decrease any duplicate data development among the Parties and result in standardized information for use in preparation of the EIS.
- D. Nothing in this DSA alters or supersedes the authorities and responsibilities of any of the Parties on any matter under their respective jurisdictions.

III. Authorities

- A. The authorities for BLM to enter into this DSA include those listed in the Cooperating Agency MOUs and the following:
 - 1. Federal Land Policy and Management Act of 1976; 43 U.S.C. § 1701, et seq.
 - 2. Federal Land Policy and Management Act of 1976; 43 U.S.C. § 1737.
 - 3. National Environmental Policy Act of 1969 (NEPA); 42 U.S.C. § 4321, et seq.
 - 4. Council on Environmental Quality regulations on implementing NEPA; 40 CFR Part 1506.2.
 - 5. Paperwork Reduction Act, 44 U.S.C. 3501.
 - 6. Office of Management and Budget (OMB) Circular A-130, Management of Federal Information Resources.
 - 7. Executive Order 12906, requiring all Federal agencies to participate in the National spatial Data Infrastructure (NSDI) to avoid wasteful duplication and promote effective and economical management of resources.
- B. The authorities for all other Parties to this DSA are incorporated by reference herein from their respective Cooperating Agency MOUs.

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IV. Data Management Plan

A. Data Sharing:

1. The Parties agree to share resource inventory and study data for mutual benefit, in order to minimize duplication of effort and expenditures, and to enhance intergovernmental cooperation and interoperability among the Parties in preparation of the EIS.
2. Under the direction of the BLM, SWCA shall maintain a data repository website for collecting and storing the information for sharing among the Parties.
3. The Parties agree to provide all digital data in a mutually-agreed format to be determined by general consensus of the Parties. BLM, as the lead agency in the preparation of the EIS, shall have the final say in any discrepancies regarding format of any data to be shared.
4. Direct communication between the Parties is encouraged to facilitate sharing and exchange of technical data, studies, draft working documents, geospatial data, and reports related to preparation of the EIS.
5. Data containing sensitive resource information, certain personally identifiable information or information subject to non-disclosure under the Privacy Act, proprietary or confidential data or any other sensitive information exempt from disclosure under the Freedom of Information Act (FOIA) may not be shared. The Party who originated/owns the data shall make the determination when such conditions exist and shall be responsible for safeguarding the release of such information.
6. All working draft, preliminary draft, and internal draft EIS material disseminated to the Parties on the shared website shall be appropriately labeled as such. A determination to release such draft material to the general public shall be determined by the originating/owner of the information under their applicable record access laws. **If release of working draft EIS material is required by state or local agencies under their procedures, the documents will retain the original disclaimer as to their draft state and suitability for public review.**
7. All BLM electronic data posted to the shared site shall contain the following disclaimer statement: "NO WARRANTY IS MADE BY THE BUREAU OF LAND MANAGEMENT FOR USE OF THE DATA FOR PURPOSES NOT INTENDED BY BLM"

B. Data Repository Website:

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1. BLM, through SWCA, will host the website to collect and share data between the Parties to this DSA. This will be accomplished utilizing a secure website in compliance with all BLM and Department of the Interior Information Technology (IT) Security requirements.
2. The website shall be password protected with a specific password assigned to each participant. The Parties shall sign a BLM Form AZ-1264-3b *Individual Computer User's Statement of Responsibility for Accessing Shared Website(s)* when obtaining a password for the shared website. Failure to complete and submit a signed form to BLM, through SWCA, within two weeks of obtaining a password shall result in cancellation of that Party's access to the website.
3. The Parties agree to provide all electronic data to the shared website in the agreed-upon electronic format. Each Party shall obtain the software necessary to access and read the data.
4. The Parties will ensure that their information is kept current and agree to provide updates to their information maintained in the data repository website.

V. Representatives

The Parties have designated representatives in their individual Cooperating Agency MOUs for preparation of the EIS. The designated representatives contained in those MOUs are herein included by reference and are identified as the points of contact for implementing this DSA.

VI. Funding

- A. Subject to the availability of funds, the Parties agree to fund their own expenses associated with the implementation of this DSA.
- B. Nothing contained herein shall be construed as obligating BLM or any other Federal agency to any expenditure or obligation of funds in excess or in advance of appropriations, in accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341.
- C. This DSA is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the Parties will be handled in accordance with applicable laws, regulations, and procedures including those for Federal procurement and printing. If necessary, such endeavors will be outlined in separate applicable instruments made in writing by representatives of the Parties and shall be independently authorized by appropriate statutory authority. This DSA does not provide such authority.

VII. Records/Data

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- A. Any records or data generated as a result of this DSA shall become part of the official record maintained and controlled by the Party that originated creation of the data or that has ownership of the information.
- B. Any requests for release of records or data associated with the implementation of this DSA to anyone outside of the Parties must be determined based on the owning Party's applicable laws, including the FOIA and/or the Privacy Act.
- C. Any data directly used or cited in the Draft or Final EIS shall become part of the official EIS record maintained by the BLM. BLM cannot agree to maintain the confidentiality of any such state/local-provided data, except to the extent permitted under the FOIA.

VIII. Compliance with Applicable Laws and Regulations; Severability Clause

This DSA is subject to all applicable Federal laws, regulations and rules, whether now in force or hereafter enacted or promulgated. Nothing in this DSA shall be construed as in any way impairing the general powers of the BLM under such applicable laws, regulations, and rules. If any term or provision of this DSA is held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions. Meeting the terms of this DSA shall not excuse any failure to comply with all applicable laws and regulations, whether or not these laws and regulations are specifically listed herein.

IX. Term, Amendment, and Termination

- A. Term of DSA:
 - 1. This DSA becomes effective for each Party upon the date that Party's duly authorized official signs this DSA. Failure of any given Party to execute this DSA does not impact or effect any other Party's implementation of this DSA.
 - 2. This DSA shall remain in effect until the completion of the Final EIS, unless terminated earlier.
- B. Amendments:
 - 1. The Parties may request modifications/changes to this DSA, which shall be effective only upon the written agreement of all Parties.
 - 2. Any changes, modification, revisions, or amendments to this DSA shall be incorporated by written instrument, executed and signed by all Parties, and will be effective in accordance with the terms and conditions contained herein.
- C. Termination:

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1. This DSA may be terminated by any Party at their discretion. Written notice is required to remove that Party's access to the data repository shared website. The cancellation notice shall become part of the official EIS record maintained by BLM.

D. Additional Terms of Agreement:

1. Participation in Similar Activities: This DSA in no way restricts any of the Parties from participating in similar activities with other public or private agencies, organizations, and individuals.
2. Geospatial Metadata: All geospatial data submitted to the data repository shared website shall include metadata to ensure the data's integrity. Metadata shall include, but not be limited to: data source, scale, reliability, age, accuracy, etc.
3. Administration of this DSA will be accomplished by the EIS Cooperating Agencies and coordinated by the BLM, through SWCA.
4. Each Party shall receive a copy of the fully executed DSA; each copy shall be deemed an original.

X. Signatures

- A. All signatories have the appropriate delegation of authority to sign this DSA.
- B. The Parties hereto have executed this DSA on the dates shown below.

Bureau of Land Management

Dated:_____

U.S. Forest Service

Dated:_____

National Park Service

Dated:_____

U.S. Fish and Wildlife Service

Dated:_____

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U.S. Geological Survey

Dated:_____

Arizona Geological Survey

Dated:_____

Arizona Dept. of Mines & Mineral Resources

Dated:_____

Arizona Game & Fish Department

Dated:_____

Arizona State Land Department

Dated:_____

Coconino County, Arizona

Dated:_____

Mohave County, Arizona

Dated:_____

Kane County, Utah

Dated:_____

San Juan County, Utah

Dated:_____

Washington County, Utah

Dated:_____

Kaibab Band of Paiute Indians

Dated:_____

Hualapai Tribe

Dated:_____

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UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT ARIZONA STATE OFFICE

INDIVIDUAL COMPUTER USER'S STATEMENT OF RESPONSIBILITY FOR SHARED WEBSITE(S)

I, the undersigned, understand that when I use a BLM shared website or gain access to any information therein, such use or access shall be limited to official Government business for the preparation of the Environmental Impact Statement (EIS) for the Northern Arizona Proposed Withdrawal. **I also acknowledge and understand** that monitoring of this website is conducted for appropriate utilization and performance. **Further, I understand** that any use of the aforementioned systems or information that is not official Government business may result in appropriate action consistent with the nature and scope of such activity.

I have read the "General Rules and Guidelines Governing the Use of BLM Shared Websites" attached hereto. **I understand and agree to comply with them.**

☐ Federal Employee

Agency / Organization / Mail Code

☐ Non-Federal

Name of Organization / Company / Other

☐ Contractor Employee

Contractor Company Name

Individual's Typed or Printed Name

Individual's Signature

Date

NOTE: SUBMIT THIS SIGNED STATEMENT (PAGE 1) TO THE BLM.

NOTICE

This information is collected in accordance with The Computer Security Act of 1987 (P.L. 100-235) which requires agencies to protect information residing in computers from misuse and unauthorized access. The primary uses of the records are administrative in nature and reflect the requestor's relationship to the BLM's shared website for which access is requested. Records will be maintained in paper form. Furnishing the information on this form is required to obtain a password for access to the shared website.

USER: DETACH AND RETAIN PAGES 2 & 3 FOR YOUR FUTURE REFERENCE

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GENERAL RULES AND GUIDELINES GOVERNING THE USE OF THE BUREAU OF LAND MANAGEMENT SHARED WEBSITES

According to the Department of Interior Manual 375 DM 19.10B, *"It is the responsibility of each [individual] to report all suspected, actual or threatened incidents involving automated information systems to the authorities indicated below."*

- **Individuals shall report observed computer security incidents or suspected computer security violations immediately to the BLM.**
- **The BLM may recommend the removal of any individual's User ID and password from any BLM shared website in the event of a security incident.**
- **Unauthorized access or misuse of a BLM shared website may subject violators to criminal, civil or administrative action. Criminal Penalties could include fines and/or imprisonment of up to 20 years. Disciplinary action for administrative violations of the following rules may range from a verbal or written warning, removal of shared website access for a specific period of time, or other action as deemed appropriate.**

Violations of the following rules are considered computer security incidents:

1. **CLASSIFIED INFORMATION.** No classified National Security information or information sensitive to Homeland Security will be entered into any BLM shared website.
2. **GOVERNMENT PROPERTY.** Data of the BLM is considered to be the property of the U.S. Government. BLM's shared website shall be used for official business only. Any use of BLM's shared website for other than official business is expressly prohibited.
3. **PROPRIETARY PROPERTY.** Commercially developed and licensed software shall be treated as proprietary property of its developer. Title 17 of the U.S. Code states that "It is illegal to make or distribute copies of copyrighted material without authorization." The only exception is the user's right to make a backup for archival purposes, assuming one is not provided by the manufacturer. It is illegal to make copies of software for any other purpose without permission of the publisher. Unauthorized duplication of software is a Federal crime. Penalties include fines of up to \$100,000 per infringement and jail terms of up to 5 years.
4. **ACCOUNTABILITY.** Individual User IDs and passwords shall be assigned only to persons having a valid requirement to access the BLM shared website. The individual user is wholly responsible for all activity accomplished under his/her assigned User IDs.

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GENERAL BUSINESS PRACTICES, which if not followed can lead to security incidents, are listed below. Noncompliance with these practices may result in removal of access and/or legal action being taken, consistent with the nature and scope of such activity.

1. **INDIVIDUAL USER IDs AND PASSWORDS.** Do not share your individual User IDs and passwords. They are to be used only by the individual owner. User IDs and passwords should not be written down except on the original assignment document. Once memorized, this document should be destroyed or, at a minimum, be kept in a locked safe or cabinet.

Under no circumstances should User IDs and passwords be posted ANYWHERE! Nor should they be kept in accessible locations. If you believe your User ID and/or password have been compromised, notify BLM immediately to obtain a new access password.

2. **UNAUTHORIZED ACCESS.** Access to the BLM shared website requires BLM approval. Do not attempt to gain access to any BLM shared website for which you are not authorized.
3. **LOG OFF** when not actively working on the computer system. Lock your workstation when leaving your work area for short periods of time or invoke the computer system's locking screen saver. Remember, you are responsible for all activity logged under your User ID and password.

FAILURE TO SIGN AND RETURN THE ATTACHED “INDIVIDUAL COMPUTER USER'S STATEMENT OF RESPONSIBILITY FOR SHARED WEBSITES” TO THE BLM within 2 weeks of issue will result in the removal of the User ID and password from the system(s). A copy of the signed statement will be a part of the BLM's official file for the EIS.

**USER: DETACH AND RETAIN GENERAL RULES AND GUIDELINES
(PAGES 2 & 3) FOR YOUR FUTURE REFERENCE**